

S-p-r-e-a-d-i-n-g the word

A national conference on "The Low-Income Consumer: New Solutions to Old Problems" will be held at the Marriott Twin Bridges Hotel in Washington, DC on May 31-June 1. Co-sponsored by the US Office of Consumer Affairs and Howard University, the conference is designed to train grassroot program directors, highlight successful community-based consumer programs and provide up-to-date information on consumer legislation and issues. For more information call Juanita Yates (202-755-8892) or Herbert Simmons, Jr. (202-636-6248).

J.C. Penney's Ninth Annual Consumer Affairs Forum will be held June 10-15 in New York City. For information on registering call or write David Schoenfeld, J.C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019; telephone 212-957-5002. Applications should be received no later than April 15.

Consumer ed fair

The 1979 Consumer Education Fair, a state-of-the-art exhibit of consumer education materials, is designed to help consumer groups, government, and industry explore practical and specific ways to develop and distribute more accurate, timely and attractive materials for schools and the public. Sponsored by the consumer offices of the Federal Trade Commission, National Bureau of Standards, Health Care Financing Administration, Federal Reserve Board, Virginia Office of Consumer Affairs, and the Cooperative League of the USA, the fair will be held on April 25 at the Washington Conference Center of the Carnegie Endowment for International Peace, #11 Dupont Circle, Washington, DC. Registration fee is \$20 per person. For more information call Ted Cron at 202-724-1870.

Recall

• **CONTRACEPTIVES—Food and Drug Administration** has announced the voluntary recall of "Semicid Vaginal Contraceptive Suppositories" by Whitehall Laboratories Inc., of Hammonton, NJ, the most recent manufacturer, and Cynechemic Company of NY, NY, the previous manufacturer. Distribution of the over-the-counter contraceptives—code numbers J806, J811, J812, I818, I822, and I826—was nationwide. The product is being recalled to modify contraception claims on the package inserts. Whitehall estimates none remain on the market.

consumer news



UNITED STATES OFFICE OF CONSUMER AFFAIRS
Esther Peterson, Director

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'Kidvid' revisited

Public response to the Federal Trade Commission's (FTC) controversial proposal to restrict TV advertising aimed at young children has been unprecedented, and FTC has received from 6,000 to 7,000 comments on the proposal, most of which favored some sort of regulation.

FTC's proposed regulations, in response to petitions from Action on Children's Television (ACT), Center for Science in the Public Interest, Consumers Union, and the Committee on Children's Television to ban or restrict children's advertising, would:

- Ban TV advertising directed to children too young to understand its selling purpose.
- Ban TV advertising of highly sugary products which tend to stick to teeth and are most likely to cause tooth decay. This would apply to those ads directed to children under 12, who are not yet old enough to understand the health and nutritional consequences of high sugar consumption.
- Require TV advertising for other less sugared foods to be balanced by nutritional and health messages funded by advertisers.

Hearings were held from early November 1978 to mid-January of this year in San Francisco. And they are going on right now in FTC's offices in Washington, DC. In fact, over 125 witnesses have been scheduled to speak between March 5, when the DC hearings started, until their conclusion on March 29. (Individual consumers are welcome to attend the remaining sessions as observers.)

Eventually there will be other hearings on issues of disputed fact, but FTC's presiding officer has decided not to schedule them until a current FTC Commissioner vacancy is filled.

The witnesses represent almost every interest imaginable: grocery manufacturers, TV stations, dental colleges, business colleges, cereal companies, nutritionists, government agencies, toy makers, soft drink manufacturers, Congressional leaders, TV producers, teachers' associations, doctors, advertising agencies, and parent organizations.

CONSUMER NEWS lacks space to report fully on the testimony of the many participants in the hearings. However, we have chosen 2 witnesses with opposing points of view to illustrate one aspect of the controversy.

In opposing FTC's proposal, one of the witnesses, Captain Kangaroo (Robert J. Keeshan), stated: "As for this inquiry, when a child in the supermarket grabs a box of cookies or cereal or a toy from the shelf, it is not for the mother to cringe and shout, 'Oh, no! Television made me buy that!' Her answer is a simple 'no'—and that matter is between parent and child and an instructional opportunity for the parent." He went on to say that children's advertising "has come a long way since the early days of Howdy Doody" and

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Heat pumps

Fedders Corp. of Edison, NJ has agreed to pay for repairs on 40,000 "split-system" heat pumps the **Federal Trade Commission (FTC)** said had a hidden defect when sold. The affected brands are Climatrol and Fedders CKH which were manufactured between November 1975 and June 1978.

Split-system heat pumps are equipped with an outdoor compressor unit and an indoor fan. All heat pump compressors build up ice and must be regularly defrosted. The FTC has charged that a switch the Fedders' pumps use to defrost the compressor is defective, causing compressor failure and other damage.

An FTC consent agreement with Fedders orders the company to repair the defective switch free, reimburse owners of the heat pumps for the cost of past repairs, and to extend the warranty on the repaired pumps to May 1, 1980.

According to the FTC, Fedders used "unfair or deceptive" practices in selling the heat pumps by implying that the pumps did not have any significant defects when they actually did. The FTC's complaint also alleges that Fedders knew the heat pumps were defective on or before February 23, 1978, and continued to sell the pumps without warning consumers.

Additionally, Fedders is charged with failing to notify current owners of the defective switch, thereby causing owners to pay for unnecessary repairs. FTC staff investigators estimate consumers will receive reimbursements ranging from \$250 to \$400.

The consent order, which is not an admission of Federal law violation, requires Fedders to contact 90% of the heat pump owners by mail or, failing that, run notices in several national magazines. Fedders, whose net profits in 1978 were more than \$300 million, can be penalized up to \$10,000 if it violates the consent order.

The FTC began its investigation after getting a complaint from Air Force Maj. Arthur J. Doherty of Woodbridge, VA, who said his \$3,000 heat pump broke down after 18 months, and that he knew other owners who had similar problems.

April 22 is deadline for comments on FTC's decision (at which time the Commission will take final action). Send comments to Secretary, Federal Trade Commission, 6th and Pennsylvania Ave., NW, Washington, D.C. 20580. A copy of the consent agreement, the complaint, the FTC's proposed order, and an analysis of the consent order may be obtained from the same address.

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approved of the correction of past advertising abuses, such as host selling.

On the other side of the controversy, Dr. Francis M. Palumbo of **Georgetown University** (in Washington, DC), full-time academic staff member, a practicing pediatrician, and a member of ACT, strongly recommended that "all advertising to children under 8 years of age be banned and that advertising for children's products be directed toward those responsible for the well being of our children, the parents."

Palumbo pointed out that the child under 8 "is incapable of the reasoning processes necessary to evaluate consumer information, i.e., advertising; and to advertise to these children is inherently unfair." He also suggested that commercial messages are deceptive in that sugar is never directly mentioned in cereal commercials (in a cited study), and are harmful because "commercials disseminate poor nutritional concepts."

Finally, the President's consumer advisor Esther Peterson, congratulated the **American Broadcasting Co. (ABC)** for responding to FTC's proposal by cutting back 20% in commercials during weekend children's programming and more clearly separating program material from selling. In her letter to ABC, however, Peterson expressed support of FTC's inquiry into children's TV advertising and the "goal of decommercialization of children's television programming."

Hospital cost containment—some estimated savings

The proposed Hospital Cost Containment Act of 1979 (HR 2626 and S 570) will significantly reduce consumers' health expenditures, according to recent estimates compiled by the Administration. Some of these cost-saving estimates are: (See **CONSUMER NEWS** March 1 for background story on hospital costs.)

- Hospital expenditures in 1984 will be \$126.5 billion, or \$19.3 billion lower than these costs would be without a cost containment law.

- Total savings in the health system from reduced hospital expenditures in fiscal years 1980-1984 would be \$53.4 billion, which breaks down to total savings of \$232 for those years for each man, woman and child in the nation. This includes a reduction in out-of-pocket payments (money paid for services not covered by medical plans) averaging \$24 per person; a reduction in individual health insurance premiums averaging \$20 per person; a reduction in employer payments averaging \$111 per person (which *could* result in higher wages or lower prices for consumers); and a reduction in individual taxes of \$77 per person.

- A family of 4 (with one wage earner) earning the median family income (\$22,472 in 1979) is expected to spend \$568 on hospital costs (direct and indirect) in 1979. Without hospital cost containment, the median income family can expect to spend \$1,145 in 1984. Total savings with cost containment to the family of 4 at the median income for FYs 1980-1984 are \$390.

- Federal savings for FYs 1980-1984 would be \$22 billion, including \$19 billion of social security trust fund savings; state and local savings for FYs 1980-1984 would be as much as \$6 billion.

- Employers would save \$14 billion for FYs 1980-1984, and individuals would save \$5 billion in lower health insurance premiums.

- Individual out-of-pocket payments for hospital care would be \$6 billion lower in FYs 1980-1984.

Energy tax credits

The Council of Better Business Bureaus, Inc. (BBB) has recently issued some national guidelines for advertising Federal energy tax credits.

BBB learned that, following enactment of the Energy Tax Act of 1978 (Public Law 95-618)—part of the National Energy Act—there was considerable confusion about how much credit the law actually allowed for installing insulation, for example, and misleading advertising often resulted. As BBB pointed out, "One ad, for example, could easily lead consumers into thinking the government was going to foot the entire bill for installing insulation," when in fact credits are limited to only a portion of such expenditures.

The Energy Tax Act *does* allow taxpayers to claim on their Federal income tax return (using Form 5695) a tax credit for the installation of:

- Energy conserving products or components: residential insulation and other energy saving measures (a credit of 15% of the first \$2,000 expended—not to exceed \$300).
- Renewable energy source products: residential solar, geothermal or wind energy equipment (a credit of 30% of the first \$2,000 and 20% of the next \$8,000—not to exceed \$2,200).

Here are items eligible for tax credits under the Act:

1. Insulation for ceilings, walls, floors, roofs, water heaters, etc.
2. Exterior storm or thermal windows or doors.
3. Caulking or weatherstripping for exterior windows or doors.
4. A furnace replacement burner which reduces the amount of fuel used.
5. A device to make flue openings (for a heating system) more efficient.
6. An electrical or mechanical furnace ignition system which replaces a gas pilot light.
7. An automatic energy-saving setback thermostat.
8. A meter which displays the cost of energy use.
9. Solar energy equipment (e.g., collectors, rockbeds, heat exchangers) that transforms sunlight into heat or electricity for heating or cooling a residence or providing hot water.
10. Geothermal energy equipment that distributes the natural heat in rocks or water.
11. Wind energy equipment that uses wind to produce energy in any form (generally electricity) for residential purposes.
12. Any other item that the Secretary of the Treasury specifies by regulation as increasing the energy efficiency of a residence.

The following items have been designated in the Energy Tax Act as *not* qualifying for tax credits—even though some of them may in fact save energy:

1. Carpeting.
2. Drapes.
3. Wood paneling.
4. Exterior siding.
5. Heat pump.
6. Wood, peat or hydrogen fueled residential equipment.
7. Fluorescent replacement lighting system.
8. Equipment using wind energy for transportation.
9. Expenditures for a swimming pool used as an energy storage medium.
10. Greenhouses.

P.S. April 16 is only a month away.

March 15, 1979

Invention promoter

Federal Trade Commission (FTC) has told Raymond Lee Organization, Inc., (RLO) of New York to stop misrepresenting services offered to inventors.

According to FTC, RLO offers patenting, developing and marketing services to individuals who believe they may have an idea for a new or improved product. Its promotional literature (found also in newspaper ads, magazines and telephone yellow pages) claims that the company "will assess inventors' ideas and advise them on whether to pursue the patenting and marketing of their inventions. Potential clients are urged to enter into contracts with RLO for patent searches and development and marketing programs in exchange for a fee and an assignment of interest in the invention."

FTC found the RLO falsely claims to give purchasers fair appraisals of the merits of their inventions and falsely implies that it is selective in accepting new ideas for developing and marketing. RLO argued that their research agreements and development contracts clearly warn clients that they make their own evaluation of the prospects for their ideas and inventions. However, FTC said, "Although RLO does not specifically state that it will evaluate the patentability and marketability of an idea, there is little question that the firm's promotional literature and its entire course of dealing leave clients with the impression that RLO will objectively assess their ideas before advising whether to pursue the patenting and marketing of an invention."

FTC also found that RLO falsely represents that it will develop or technically refine clients' ideas and said it has no reason to believe that RLO does anything special with clients' ideas and inventions except prepare drawings to accompany patent applications.

FTC's other allegations against RLO included (1) false claims to actively and successfully promote its clients' ideas to industry; (2) false claims of endorsement by public officials; (3) misrepresentations concerning RLO's founder's former status as a patent attorney; and (4) failure to disclose "hidden" fees.

FTC's order requires RLO to include a disclosure statement in its promotional literature advising clients that it does not evaluate the merits of their ideas, citing the number of clients in recent years who received more money from the services than they paid to the company in fees, and stating that clients may have to pay certain hidden charges. A 10-day cooling off period (with a full refund if contract is cancelled) was also ordered.

PSNH for sale!

As a result of its announced intention to sell a portion of its interest in the Seabrook nuclear generating facility, **Public Service Company of New Hampshire (PSNH)** has asked the **Federal Energy Regulatory Commission (FERC)** to postpone for 60 days the proceedings on the company's application to include construction work in progress (CWIP) in its rate base.

The **US Office of Consumer Affairs (OCA)** and other intervenors in the case had argued that PSNH should investigate the sale option, as well as alternative financing mechanisms, before being granted CWIP in its rate base. If PSNH completes the announced sale, its alleged financial difficulty will be eliminated, and it will no longer have grounds for requesting CWIP in its rate base, according to OCA. (See **CONSUMER NEWS** March 1).

Correction

In the March 1 issue of **CONSUMER NEWS** we incorrectly identified the defendant in an antitrust suit brought by the Vermont Attorney General on behalf of Vermont consumers. The correct defendant in the Federal court action is **Densmore Brick Co., Inc.**, the distributor of **JOTUL** brand wood stoves in Vermont and New Hampshire. Neither the manufacturer, **JOTUL**, nor the importer have been sued for the alleged resale price maintenance.

The defendant, **Densmore**, has denied the allegations and filed a motion for summary judgment. The court has not yet reached a decision in the case.

Saccharin report

The **National Academy of Sciences (NAS)** has released Part II of its saccharin report entitled *Food Safety Policy: Scientific and Societal Considerations*, which was prepared for Congress in response to Public Law 95-203 (Saccharin Study and Labeling Act).

Under existing law (the Delaney Amendment), saccharin is subject to a Federal ban because it has been shown to cause cancer in laboratory animals. Congress passed SSLA to postpone any ban until further study.

Part I of the NAS study reported that saccharin is a carcinogen. Evidence was also reported indicating that saccharin is a "promoter"—that is, saccharin seems to promote the cancer-causing effects of other cancer-causing agents. The panel further stated there is no scientific evidence that saccharin has any health benefits. But beneficial or not, it is estimated that between 50 million and 70 million Americans consume saccharin with some frequency, including one-third of children under 10 years of age.

Part II of the study did not recommend a ban on saccharin but instead recommended that the **Food and Drug Administration (FDA)** be given more discretionary regulatory authority to restrict use of the artificial sweetener. The report specifically recommended:

- That there be a single policy applicable to all foodstuffs, food additives, and food contaminants and that the public officials responsible for implementation of that policy be given sufficient flexibility to take risks, benefits, and other considerations into account when making a decision concerning questionable substances.

- That there be available to those officials options other than decisions simply to ban or not to ban.

- That materials under consideration first be categorized as exhibiting low, moderate or high risk.

One-third of the NAS panel dissented from the majority view. The dissenting group felt government has a strict responsibility to ensure the safety of the food supply and favored an outright ban on saccharin. The minority statement says in part:

The public has a right to food that is as free of serious health hazards as possible.

There is no scientifically defensible way to divide carcinogens into different risk categories. The ability of science to quantify human risk has not advanced sufficiently since the formulation of the Delaney Amendment to permit the construction of a scientific rationale for such a scheme.

The report has been sent to Congress where, after study, legislation will be introduced to either (1) extend the study period, (2) allow saccharin as an exception to the Delaney Amendment, or (3) permit FDA to ban saccharin.

In the meantime, saccharin continues to be available in soft drinks and other products with appropriate warning labels.

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